

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

KAVIN LEE PEEPLES,	:	Case No. 1:19-cv-340
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
Warden, Southern Ohio Correctional	:	
Facility,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY  
ADOPTING THE REPORTS AND RECOMMENDATIONS  
OF THE UNITED STATES MAGISTRATE JUDGE (Docs. 10, 13)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge, on July 17, 2019, submitted a Report and Recommendation recommending that Petitioner's pending motion for expert psychiatric and medical evaluation at a federal medical facility (Doc. 1-1) and motions for appointment of counsel (Docs. 1-2, 6) be transferred to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b) as a second or successive habeas corpus petition seeking relief under 28 U.S.C. § 2254. (Doc. 10). Petitioner filed a "response" to the Report and Recommendation on July 31, 2019, explaining that he does not understand the legal process and how to proceed. (Doc. 11). Subsequently, Petitioner filed a motion to transfer 28 U.S.C. § 2244(b) application to the Sixth Circuit Court of Appeals. (Doc. 12). The Magistrate Judge issued a second Report and Recommendation on November 20, 2019 recommending that Petitioner's motion to

transfer be granted to the extent that Petitioner's motions for evaluation (Doc. 1-1) and for appointment of counsel (Docs. 1-2, 6) be transferred to the Sixth Circuit Court of Appeals. (Doc. 13). Petitioner did not file objections to this second Report and Recommendation.

As the Magistrate Judge explains in the first Report and Recommendation, Petitioner Kevin Peebles has previously challenged in federal court his underlying 1992 murder conviction. Before the district court may consider a successive habeas petition, the petitioner must first request and obtain authorization for such consideration from the court of appeals. 28 U.S.C. § 2244(b). Accordingly, for the reasons stated in the Magistrate Judge's first Report and Recommendation (Doc. 10), Petitioner's motion to transfer (Doc. 12) will be granted to the extent that his pending motions for evaluation (Doc. 1-1) and for appointment of counsel (Docs. 1-2, 6) are transferred to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b) as a second or successive habeas corpus petition seeking relief under 28 U.S.C. § 2254.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Reports and Recommendations (Docs. 10, 13) should be and are hereby **ADOPTED** in their entirety.

Accordingly, for the reasons stated above:

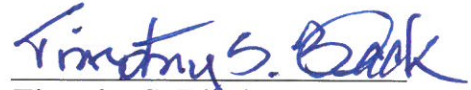
- 1) Petitioner's motion to transfer (Doc. 12) is **GRANTED** to the extent that Petitioner's motions for expert evaluation (Doc. 1-1) and for appointment of counsel (Docs. 1-2, 6) are transferred to the Sixth Circuit Court of

Appeals pursuant to 28 U.S.C. § 2244(b) as a second or successive habeas corpus petition seeking relief under § 2254;

- 2) Petitioner's motions for expert evaluation (Doc. 1-1) and for appointment of counsel (Docs. 1-2, 6) are hereby **TRANSFERRED** to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244(b) as a second or successive habeas corpus petition seeking relief under § 2254.

**IT IS SO ORDERED.**

Date: 12/3/19

  
Timothy S. Black  
United States District Judge